

**SAN FRANCISCO POLICE DEPARTMENT
FIREARM DISCHARGE REVIEW BOARD AGENDA**

**SPECIAL MEETING
THURSDAY, DECEMBER 20, 2012
10:00 a.m.**

**THOMAS J. CAHILL HALL OF JUSTICE
850 Bryant Street, Room 505
San Francisco, CA 94103**

Roll Call.

1. Discussion, review, and report to the Chief of Police regarding the following officer-involved weapon shooting(s): Number OIS 11-002 (ACTION ITEM)

The Firearm Discharge Review Board may consider all or part of Item 1 in Closed Session pursuant to Government Code section 54957(b)(1) and S.F. Administrative Code section 67.10(b), in which case:

- a. Public Comment on all matters pertaining to Closed Session.
- b. Vote on whether to hold Closed Session. (ACTION ITEM)
- c. Convene Closed Session pursuant to Government Code section 54957(b)(1) and S.F. Administrative Code section 67.10(b).
- d. Reconvene to Open Session. Vote whether to disclose any or all of the discussions held in Closed Session pursuant to S.F. Administrative Code section 67.12(a). (ACTION ITEM)

**SAN FRANCISCO POLICE COMMISSION AGENDA
REGULAR MEETING
WEDNESDAY, JUNE 15, 2011
5:30 p.m.**

**CITY HALL, ROOM 400
#1 Dr. Carlton B. Goodlett Place
San Francisco, California**

Pledge of Allegiance; Roll Call

1. General Public Comment

(The public is now welcome to address the Commission regarding items that do not appear on tonight's agenda but that are within the subject matter jurisdiction of the Commission. Speakers shall address their remarks to the Commission as a whole and not to individual Commissioners or Department or OCC personnel. Under Police Commission Rules of Order, during public comment, neither Police or OCC personnel, nor Commissioners are required to respond to questions presented by the public but, may provide a brief response. Individual Commissioners and Police and OCC personnel should refrain, however, from entering into any debates or discussion with speakers during public comment. Please limit your comments to three (3) minutes.)

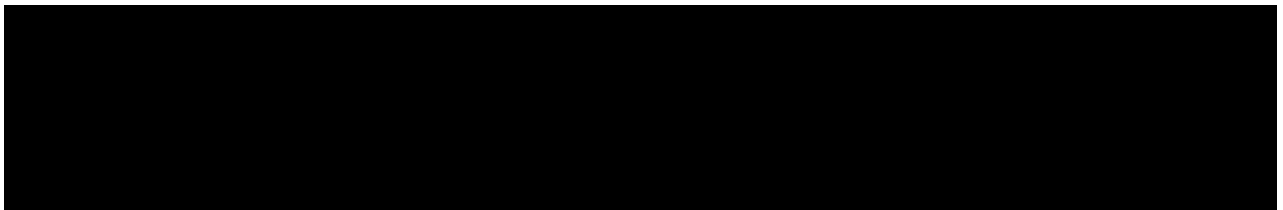
2. Reports and Announcements

- a. Chief's report (DISCUSSION)
 - Report on crime statistics
 - Review of recent activities
 - Status report regarding Patrol Special Officers' compliance
 - Report regarding the Police Reserves Program
- b. OCC Director's report (DISCUSSION)
 - Review of recent activities
- c. Commission reports (DISCUSSION)
 - Commission President's report
 - Commissioners' reports
- d. Commission announcements and scheduling of items identified for consideration at future Commission meetings (ACTION)

3. Public comment on all matters pertaining to Item 5 below, Closed Session – Disciplinary Cases, including public comment on vote whether to hold Item 5 in closed session.

4. Vote on whether to hold Item 5 in closed session (ACTION)

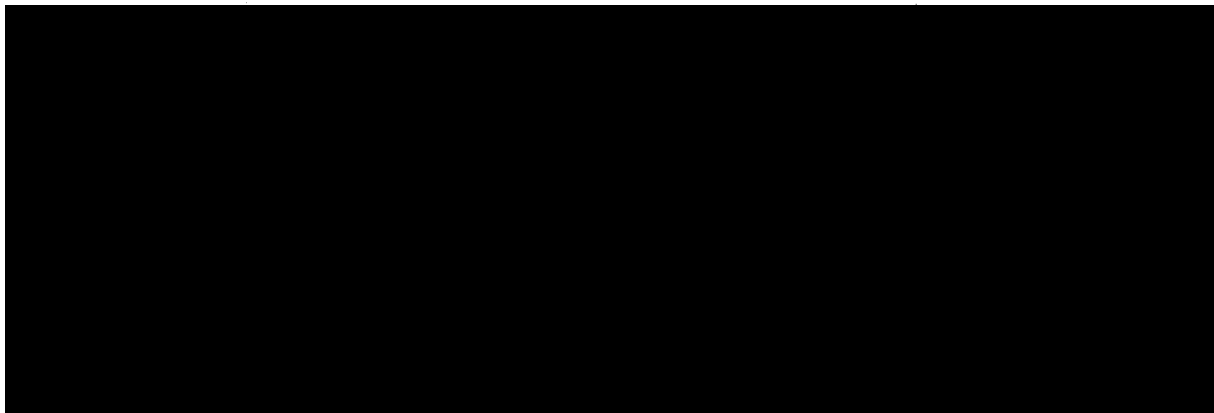
5. **Closed Session – Disciplinary Cases**
Roll Call;



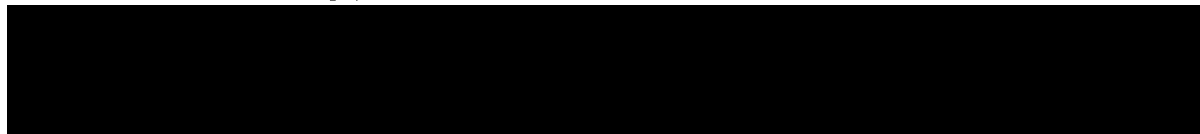
**SAN FRANCISCO POLICE COMMISSION AGENDA
REGULAR MEETING
WEDNESDAY, JUNE 15, 2011
5:30 p.m.**

**CITY HALL, ROOM 400
#1 Dr. Carlton B. Goodlett Place
San Francisco, California**

5.



- e. Pursuant to Government Code Section 54957 and San Francisco Administrative Code Section 67.10(b) and Penal Code Section 832.7:
PUBLIC EMPLOYEE PERFORMANCE EVALUATION: Chief of Police
Review of findings and decision to return officer to duty following officer-involved shooting (OIS Case No. 11-002) (DISCUSSION ONLY)



(OPEN SESSION) Roll Call.

6. Vote to elect whether to disclose any or all discussion on Item 5 held in closed session (San Francisco Administrative Code Section 67.12(a)) (ACTION)

7. **Adjournment (ACTION ITEM)**

** SUPPORTING DOCUMENTATION FOR POLICE COMMISSION AGENDA ITEMS THAT ARE NOT CONFIDENTIAL AND DOCUMENTATION THAT HAVE BEEN DISTRIBUTED TO THE COMMISSION AFTER DISTRIBUTION OF THE AGENDA PACKETS ARE AVAILABLE FOR REVIEW AT THE POLICE COMMISSION OFFICE, THOMAS J. CAHILL HALL OF JUSTICE, 850 BRYANT STREET, ROOM 505, SAN FRANCISCO, CA 94103, DURING NORMAL BUSINESS HOURS

PLEASE NOTE The Police Commission will be holding a Special Meeting this month at a location other than City Hall.

1. The Commission will meet in the Ingleside District at Visitation Valley Middle School, 450 Raymond, San Francisco, on Wednesday, June 29, 2011, at 6 p.m., to hear comments from the public and Ingleside Station Captain Daniel Mahoney concerning public protections issues in the Ingleside District



EDWIN M. LEE
MAYOR

POLICE DEPARTMENT
CITY AND COUNTY OF SAN FRANCISCO

THOMAS J. CAHILL HALL OF JUSTICE
850 BRYANT STREET
SAN FRANCISCO, CALIFORNIA 94103-4603



GREGORY P. SUHR
CHIEF OF POLICE

June 13, 2011

Thomas Mazzucco
President, Police Commission
San Francisco Police Department
850 Bryant Street, Room #505
San Francisco, CA 94103

Re: Decision to return Sergeant Scott Ryan #734 and Officer Albert Lieu #1632 to regular assignment following their involvement in an Officer-Involved Shooting #11-002.

Dear President Mazzucco,

On June 13, 2011, in accordance with Department General Order 8.11, Acting Deputy Chief Albert Pardini convened the below panel to consider whether Sergeant Scott Ryan #734 and Officer Albert Lieu #1632 should be returned to regular assignment following their involvement in an officer-involved shooting on June 7, 2011. The Return to Duty panel included: Acting Deputy Chief Albert Pardini of Administrative Services Bureau (Chair), Deputy Chief Kevin Cashman of Operations Bureau, Commander Mikail Ali of Operations Bureau, Commander Michael Biel of Investigations, Captain Greg McEachern of Risk Management, Captain Denis O'Leary of Park Station, Lieutenant Hector Sainez of Homicide Detail, Lieutenant Robert Moser of the Internal Affairs Division-Admin, and Sergeant Mary Dunnigan of the Behavioral Science Unit.

The panel considered all of the investigative information provided by the Homicide Detail. Sergeant Mary Dunnigan confirmed that the involved member participated in the mandatory debriefing as required. As with all officer-involved shootings, the Internal Affairs Division made the following recommendations: the members should participate in a "Post-Discharge Firearm Debrief" at the Range and Force Options simulator training at the Academy. The panel made the recommendation to return the involved members to their regular field assignment following attendance in the above listed training.

Based upon all the facts and circumstances known at this time, and after consulting with appropriate Department personnel as described in DGO 8.11, I find that Sergeant Scott Ryan and Officer Albert Lieu should be returned to their regular assignment.

In accordance with Department General Order 8.11, I look forward to discussing my finding and decision with you at the Police Commission meeting on June 15, 2011.

Sincerely,


GREGORY P. SUHR
Chief of Police

cc: Director Hicks, OCC

**POLICE COMMISSION
RETURN TO DUTY
OIS 11-002**



CONFIDENTIAL

Disclaimer

Note: As with all Return to Duty presentations, the following report should be considered preliminary information only.

There are open criminal and administrative investigations.

Case Overview

- ▣ Date: Tuesday, June 7, 2011
- ▣ Time: 17:23 hours
- ▣ Place: ■ Buena Vista Ave East
- ▣ Sgt. Ryan, Ofc. Lieu, and Ofc. Reyes encountered a suspected bank robber inside a stolen vehicle. During the confrontation, the suspect used ■ vehicle as a weapon against the officers. Sgt. Ryan and Ofc. Lieu discharged their weapons at the suspect, mortally wounding ■

Officers involved:

Sergeant Scott Ryan # 734
Park Station call sign 3F135

■
Plain clothes: 10 years
2.5 as a supervisor

Officer Albert Lieu #1632
Park Station call sign 3F35C

■
Plain clothes: 3 years



Officers involved:

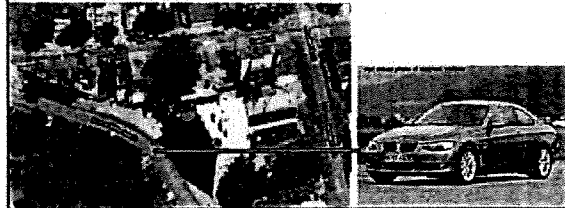
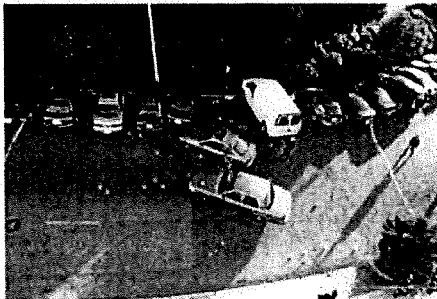
Officer Reuben Reyes #1954

Park Station call sign 3F35E

Plain clothes: 2 years

PRELIMINARY FACTS


Earlier in the day the officers were involved in a surveillance operation which ended at 1500 hours. The officers were informed a BMW was located at Buena Vista East and Haight Street. The vehicle was connected to a bank robbery suspect from Irvine, CA.

View from above  Buena Vista Ave EastTimeline / DEM Audio

17:23:20 3F135 "Code 33" occupied 10-30

Buena Vista East "Get me a couple of units, 10-25"

17:23:46 3F135 "Shots Fired"

Note:  Parnassus was a prior run address

17:24:20 3F108 10-97

17:25:00 Sufficient Help

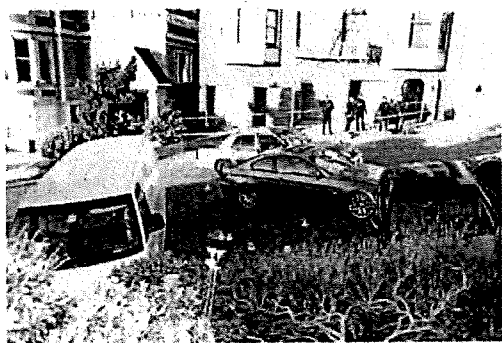
17:25:40 3F204 "Code 3 408" (ambulance)

17:27:20 3F108 408 is 10-97

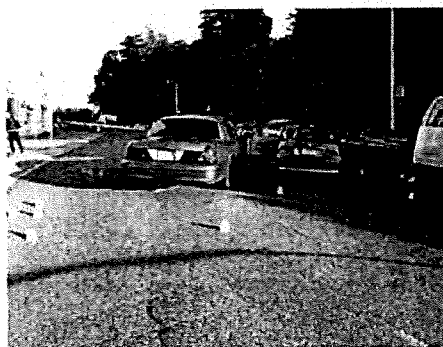
23 seconds from "Code 33" to "Shots Fired"



East View



Southbound View



Northbound View



**DGO 5.02 (Use of Firearms)
rev. 3/16/11**

"An officer shall not discharge a firearm at the operator or occupant of a moving vehicle except under the following circumstances:

(2) If the operator of the moving vehicle is threatening the officer with imminent danger of death or serious bodily injury by means of the vehicle, and the officer has no reasonable and apparent way to retreat or otherwise move to a place of safety."

Investigations Continues

- ☐ Criminal (Homicide/DA)
- ☐ Administrative (IAD)
- ☐ Once reports completed, Firearm Discharge Review Board will convene and issue recommended finding to Chief of Police.



EDWIN M. LEE
MAYOR

POLICE DEPARTMENT
CITY AND COUNTY OF SAN FRANCISCO
THOMAS J. CAHILL HALL OF JUSTICE
850 BRYANT STREET
SAN FRANCISCO, CALIFORNIA 94103-4603



GREGORY P. SUHR
CHIEF OF POLICE

January 23, 2013

Honorable Police Commission
City and County of San Francisco
850 Bryant Street, Room 505
San Francisco, CA 94103

2013 JAN 23 4:11:28 PM

Re: Officer-Involved Shooting (OIS 11-002)

Dear Commissioners:

This letter is a report summarizing the investigative findings for Officer-Involved Shooting, OIS 11-002. This summary report is directed to the Police Commission pursuant to Department General Order 8.11, Section II.I.1 (Rev. Sept. 21, 2005).

After a thorough review of the incident, including the Homicide Detail investigation, the Internal Affairs Division investigation, and the District Attorney's Office for the City of San Francisco, the incident is summarized as follows.

1) Incident Summary

On Tuesday, June 7, 2011 at 11:21 hours DEM received a call regarding a stolen vehicle from Southern California. The vehicle was described as a 2009 BMW 3 series. The vehicle was being tracked via GPS and was determined to be in the area of Buena Vista East and Haight Street. Several minutes later, DEM received additional information

Sergeant #1, Officer #1 and Officer #2 were assigned to continue to monitor the vehicle during their tour of duty. Sergeant #1 (front passenger), Officer #1 (driver), and Officer #2 (rear passenger) teamed up in one unmarked police vehicle and began other duties in the district. The Officers were working as a plainclothes team in the Park District. Since none of the officers had seen the wanted vehicle, they proceeded north on Buena Vista East from Duboce to familiarize themselves with what the vehicle in the event that it became mobile.

While making their pass, the officers saw the suspect vehicle (BMW) parked near ■ Buena Vista East next to a yellow van. (Vehicles on this street are parked at a 90 degree angle. The BMW had the front end closest to the curb. Officer #1 commented to the others that he may have seen brake lights on the BMW. They decided to drive down the block, make a U-turn at Haight Street, and take another look as they drove south on Buena Vista East.

Officer #1 drove past the vehicle again and the officers noticed that the vehicle was in fact occupied. Officer #1 quickly backed up and parked. Officer #1 exited his driver's door and was positioned to the rear of a Nissan Altima just south of the driver's side of the BMW. Officer #2 exited the rear driver's side door and became positioned north of the BMW on the passenger side. Sergeant #1 exited the front passenger side and was positioned immediately to the driver's side rear of the BMW.

The officers verbally identified themselves and gave orders to the single occupant of the BMW. Officers #1 and #2 had their stars visible around their necks. Sergeant #1 had his star on a clip on his pocket. All three officers had their firearms drawn in an attempt to take the suspect into custody believing that ■ may be the suspected bank robber. The Officers gave verbal commands, but the suspect did not comply. Sergeant #1 got on his pic radio and called a Code 33 (clear channel for emergency) at 17:23:23 hours.

Officer #1 would later state:

The car started moving back...toward (Sergeant #1). It seemed like it was moving at a pretty good pace. ...I shot a couple rounds. Then the vehicle turned towards me. ...I tried to move out of the way, between two cars. ■■■ was coming at me. ■■■ hit the car...my leg was in there, kind of pinned in there. ■■■ was still not compliant with our orders. I was scared...I thought ■■■ was going to run me down next.

Officer #2 realized that Officer #1 was on his field of fire and therefore did not fire his weapon at the suspect.

Officer #2 would later state, "I'm completely fearful for (Sergeant #1). ...He was 100 percent in danger."

The BMW came to a stop with the right front end contacting the left rear end of the Nissan Altima. The officers approached the suspect in the BMW but ■■■ hands were positioned in a fashion that gave them pause. Once they were comfortable that no weapons were visible, Officer #1 assisted by Officer #2 handcuffed the suspect to the front of ■■■ body and took ■■■ into custody.

Sergeant #1 notified dispatch that shots had been fired at 17:23:46 hours. Back up units arrived and summoned medical attention for the suspect. The suspect was transported to San Francisco General Hospital where ■■■ was pronounced dead at 18:05 hours.

2) Criminal Investigation Summary

Homicide investigators and CSI personnel responded to ■■■ Buena Vista East. Homicide investigators assumed control of the criminal investigation.

vehicle came to a stop. Based on the totality of circumstances, there is no reason to believe Sergeant Ryan and Officer Lieu acted unlawfully.

3) Witness Statements

All officers and identified witnesses were interviewed in the course of this investigation. Statements from these parties were gathered during the criminal and administrative investigations.

There were no significant inconsistencies among the accounts related during these interviews.

4) Force Analysis

The following statute and Department General Order provisions were considered in the evaluation of this use of force event:

Penal Code Section 835a:

Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance.

A peace officer who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.

- a. To prevent the commission of a public offense.
 - b. To prevent a person from injuring himself/herself.
 - c. To effect the lawful arrest/detention of persons resisting or attempting to evade that arrest/detention.
 - d. In self-defense or in the defense of another person.
2. Before using force, the officer should consider these questions:
- a. What actions on the part of the suspect justify the use of force?
 - b. What crime is being or has been committed?
 - c. Does the situation require the immediate use of force?

Department General Order 5.02, *Use of Firearms* (rev. 11/1/95) outlines Department policy specifically with respect to the use of firearms. (This DGO was revised on 3/16/11). As in effect at the time of this incident, DGO 5.02, stated, in part:

2. PERMISSIBLE CIRCUMSTANCES. Officers may discharge a firearm in any of the following circumstances:

- a. In the necessary defense of himself/herself when the officer has reasonable cause to believe that he/she is in imminent danger of death or serious bodily injury.
- b. In the necessary defense of another person when the officer has reasonable cause to believe that the person is in imminent danger of death or serious bodily injury.
- c. To make an arrest when:
 - (1) The officer has reasonable cause to believe that the suspect has committed or attempted to commit a felony involving the use or threatened use of deadly force; and
 - (2) The officer has reasonable cause to believe that a substantial risk exists that the person to be arrested will cause death or serious bodily injury if his/her apprehension is delayed; and

- (3) In defense of another person when the officer has reasonable cause to believe that the person is in imminent danger of death or serious bodily injury.
- (4) To apprehend the person when both of the following circumstances exist:
 - (a) The officer has reasonable cause to believe that the person has committed or has attempted to commit a violent felony involving the use or threatened use of deadly force; AND
 - (b) The officer has reasonable cause to believe that a substantial risk exists that the person will cause death or serious bodily injury to officers or others if the person's apprehension is delayed.

5) Policy and Procedure Review

Department General Order 5.01, *Use of Force* provides the parameters under which officers may resort to the use of force, and Department General Order 5.02.I.C.2 (*Use of Firearms*) specifically defines permissible circumstances in which an officer may discharge a firearm.

Sergeant #1 and Officer #1 were conducting surveillance on a stolen vehicle. The vehicle was possibly driven by a wanted bank robbery suspect. They had knowledge that the suspect had attempted to run over Officers with the vehicle on prior occasions. The Officers responded to the area to get a closer look at the vehicle, they did not expect to encounter the suspect.

feasible; they provided ample warnings to the suspect; and they resorted to lethal force, in fear for their safety and the safety of others, in accordance with Department policies.

6) Firearm Discharge Review Board (FDRB) Summary and Findings

After the investigations by the Homicide unit and the Internal Affairs Division were completed, OIS 11-002 was brought before the 4th Quarter 2012 FDRB on December 20, 2012.

a) Summary of Witness Testimony Before the FDRB

The case summary and investigation findings in this case were presented by the IAD investigator. There was no additional witness testimony.

b) Summary of FDRB Discussion

The Firearm Discharge Review Board discussed the use of lethal force by Officer #1 and Officer #2, including the facts known to the officer at the time of the encounter and their actions in response to the deadly threat posed by the suspect.

A peripheral discussion at this board ensued regarding the use of such encounters in a training context.

c) Findings Per General Order 3.10

After reviewing the known facts and investigative conclusions in this case, the FDRB unanimously voted to accept the recommended finding of "In Policy." I concurred with the FDRB findings, and the case was closed.

SB 1421 PRA for OIS 2011-03

Officer Scott Ryan and Officer Albert Lieu

Records not released:

Audio recording of closed session item of Chief's Review to return Officers Ryan and Lieu to duty.